

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724 (Sub-No. 3)

UNITED STATES RAIL SERVICE ISSUES—DATA COLLECTION

Docket No. EP 724 (Sub-No. 4)

UNITED STATES RAIL SERVICE ISSUES—PERFORMANCE DATA REPORTING

Digest:¹ This decision extends the effective date of the final rule in Docket No. EP 724 (Sub-No. 4) and extends data reporting under the 2014 interim data order in Docket No. EP 724 (Sub-No. 3).

Decided: January 27, 2017

On November 30, 2016, the Board adopted a final rule to establish new regulations requiring all Class I railroads and the Chicago Transportation Coordination Office, through its Class I members, to report certain service performance metrics on a weekly, semiannual, and occasional basis. U.S. Rail Serv. Issues—Performance Data Reporting (November Decision), EP 724 (Sub-No. 4), slip op. at 1 (STB served Nov. 30, 2016). The Board published the final rule in the Federal Register on December 5, 2016, and set an effective date of January 29, 2017. November Decision, slip op. at 4; 81 Fed. Reg. 87472. Also on November 30, 2016, the Board issued an order stating that upon the commencement of reporting under the Docket No. EP 724 (Sub-No. 4) final rule, reporting under an earlier interim order would no longer be necessary. See U.S. Rail Serv. Issues, EP 724 et al., slip op. at 3 (STB served Nov. 30, 2016); see also U.S. Rail Serv. Issues—Data Collection (Interim Data Order), EP 724 (Sub-No. 3), slip op. at 2-5 (STB served Oct. 8, 2014). The Board set February 1, 2017, as the final date for reporting under the Interim Data Order and ordered that the Docket No. EP 724 (Sub-No. 3) proceeding be discontinued effective February 2, 2017. U.S. Rail Serv. Issues, EP 724 et al., slip op. at 3.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

On January 20, 2017, a Memorandum for the Heads of Executive Departments and Agencies from Reince Priebus, Chief of Staff to President Trump, was issued.² Although the Board is an independent regulatory agency, it will extend the effective dates in Docket Nos. EP 724 (Sub-No. 3) and EP 724 (Sub-No. 4) in accordance with the Memorandum's request that the effective date of rules already published in the Federal Register but that have not become effective be postponed for 60 days. As a result, the final rule in Docket No. EP 724 (Sub-No. 4) will now be effective on March 21, 2017, and initial reporting will begin March 29, 2017. The effective date for discontinuing reporting in Docket No. EP 724 (Sub-No. 3) under the Interim Data Order is extended to March 22, 2017, and that proceeding will be discontinued on March 23, 2017.³

The final rule adopted requirements for reporting cars in fertilizer service, as defined by 14 Standard Transportation Commodity Codes (STCCs) that The Fertilizer Institute (TFI) provided in comments. November Decision, slip op. at 15. On December 20, 2016, TFI petitioned the Board to reconsider the final rule to modify the definition of fertilizer by adding one STCC to the 14 that were previously included in the final rule. The Board will rule on the petition in a subsequent decision.

It is ordered:

1. The final rule in the November Decision, which was published in the Federal Register on December 5, 2016, will be effective on March 21, 2017. The initial reporting date will be March 29, 2017.
2. The final date for reporting under the Interim Data Order will be March 22, 2017.
3. The proceeding in Docket No. EP 724 (Sub-No. 3) will be discontinued as described above, effective March 23, 2017.
4. Notice of the Board's action will be published in the Federal Register.

By the Board, Acting Chairman Begeman, Vice Chairman Miller, and Commissioner Elliott.

² Reince Priebus, Memorandum for the Heads of Executive Departments and Agencies (Memorandum) (Jan. 20, 2017), <http://www.whitehouse.gov/briefing-room/presidential-actions> (follow hyperlink to Memorandum for the Heads of Executive Departments and Agencies).

³ The proceeding United States Rail Service Issues, Docket No. EP 724, will be discontinued effective February 2, 2017, as previously decided by the Board. U.S. Rail Serv. Issues, EP 724 et al., slip op. at 3.